REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-13, 15-25, and 27-36 are pending in the present application, Claims 1, 13, and 25 having been amended. Support for the amendments to independent Claims 1, 13, and 25 is found, for example, in Applicant's Figs. 18-22. Applicant respectfully submits that no new matter is added.

In the outstanding Office Action, Claims 1-3, 5-15, 17-27, and 29-36 were rejected under 35 U.S.C. §103(a) as unpatentable over Babu et al. (U.S. Patent No. 6,122,639, hereinafter Babu) in view of Cooper et al. (U.S. Patent Publication No. 2004/0015579, hereinafter Cooper; and Claims 4, 16, and 28 were rejected under 35 U.S.C. §103(a) as unpatentable over Babu in view of Cooper, and further in view of Brunemann et al. (U.S. Patent No. 6,487,717, hereinafter Brunemann).

Applicant thanks the Examiners for the courtesy of an interview extended to Applicant's representative on March 10, 2009. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. The Examiners indicated that the proposed amendment to Claim 1 appeared to overcome the rejection of rerecord. However, no agreement as to allowability was reached as the amended form of the claims required further searching. Arguments presented during the interview are reiterated below.

With respect to the rejection of Claim 1 as unpatentable over Babu and Cooper, Applicant respectfully submits that the amendment to Claim 1 overcomes the outstanding grounds of rejection. Amended Claim 1 recites, *inter alia*, "obtaining state information regarding the monitored device from the monitored device, wherein the monitored device uses two or more communication protocols to report the state information to the monitoring

computer." Babu and Cooper, taken alone or in proper combination, do not disclose or suggest at least these elements of amended Claim 1.

Babu does not disclose or suggest that a monitored device reports state information to a monitoring device using two or more communication protocols, as is described in amended Claim 1. Rather, Babu describes using one protocol (SNMP). For SNMP, a SNMP query is used to obtain the desired information.

HTTP is used in Babu for communications between the network management server and a client.[1] The network devices use Ethernet, Token Ring, and other protocols to communicate amongst themselves.[2] However, monitored devices 118a-118c only provide information to the collection engine using SNMP.[3] There is no disclosure or suggestion in Babu to use anything other than SNMP to do monitoring.

Furthermore, Applicant agrees with page 4 of the Office Action, where it states that Babu does not disclose "a first memory external to the monitoring computer and different than the monitored device," and "wherein the first memory is organized according to the plurality of communication protocols, and the plurality of communication protocols are associated with corresponding information for accessing the monitored device."

Furthermore, Applicant respectfully submits that Cooper does not cure the above-noted deficiencies in Babu.

Cooper does not describe "monitored devices." Page 4 of the Office Action refers to paragraph [0115] of Cooper, which states "a policy monitoring computer" and "dump data 115 that has been collected from an observed network." Paragraph [0116] of Cooper further describes the policy monitoring computer. Paragraph [0249] of Cooper merely describes that protocol events are logged to a database. There is no description of a "monitored device" in Cooper.

---

[1] Babu, Fig. 1.
[2] Babu, col. 6, lines 34-38.
[3] See, Fig. 3 of Babu, particularly steps 302, 304, and 308; and col. 7, line 57 to col. 8, line 6 of Babu.

12

With respect to "monitored," Cooper describes a "particular company or site that is being monitored,"[4] "network traffic monitored by that agent,"[5] "customer network can be monitored while in normal operation or production,"[6] "the analyst has a list of monitored network events,"[7] "to a customer whose network is being monitored,"[8] "wherein the dashboard 20000 is kept up to date with current monitoring information from the monitored network,"[9] "to view high level reporting of the health of the monitored network,"[10] "a 'monitored' subnet',"[11] "the conformance of monitored traffic,"[12] "traffic monitored by multiple monitors,"[13] and "traffic monitored by Enterprise Managers."[14] As seen from these excerpts, Cooper describes monitoring network traffic and not a device.

Thus, there is no monitored device that uses two or more communication protocols to report state information regarding the monitored device to the monitoring computer.

Because Cooper does not disclose a "monitored device," there is no "first memory...*different from the monitored device*" and "organized according to the plurality of communication protocols," wherein "the plurality of communication protocols are associated with corresponding information *for accessing the monitored device*." Any protocol event logged to the database, as described in paragraph [0249] of Cooper is **not** for accessing a monitored device.

Moreover, as there is no "monitored device" in Cooper, it would **not** have been obvious to a person skilled in the art at the time of the invention was made to incorporate the

---

[4] Cooper, paragraph [0246].
[5] Cooper, paragraph [0373].
[6] Cooper, paragraph [0389].
[7] Cooper, paragraph [0405].
[8] Cooper, paragraph [0483].
[9] Cooper, paragraph [0485].
[10] Cooper, paragraph [0487].
[11] Cooper, paragraph [0655].
[12] Cooper, paragraph [0922].
[13] Cooper, paragraph [0930].
[14] Cooper, paragraph [0943].

use of external memory to store/access information of monitored devices in the system of

Babu.[15]

In light of the above-noted differences between amended Claim 1 when compared to

the combination of Babu and Cooper, Applicant respectfully submits that a person of

ordinary skill in the art could not properly combine Babu and Cooper to arrive at the

invention defined by Claim 1.

In view of the above-noted distinctions, Applicant respectfully submits that Claim 1

(and any claims dependent thereon) patentably distinguish over Babu and Cooper, taken

alone or in proper combination. Claims 13 and 25, although of different statutory classes,

recite elements analogous to those of Claim 1. Applicant respectfully submits that Claims 13

and 25 (and any claims dependent thereon) patentably distinguish over Babu and Cooper, for
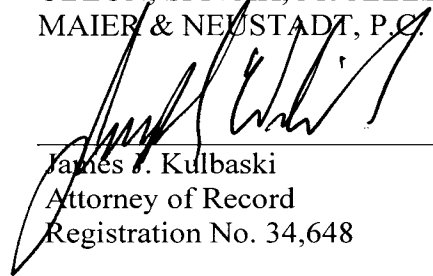
at least the reasons stated for Claim 1.

Addressing each of the further rejections, each of the further rejections is also

traversed by the present response as no teachings in any of the further cited references to

Brunemann can overcome the above-noted deficiencies of Babu and Cooper. Accordingly, it

is respectfully requested that those rejections be withdrawn for similar reasons as discussed

above.

---

[15] Compare with, page 5 of the Office Action.

Consequently, in light of the above discussion and in view of the present amendment,

the present application is believed to be in condition for allowance and an early and favorable

action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

James T. Kulbaski
Attorney of Record
Registration No. 34,648

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Joseph Wrkich
Registration No. 53,796

I:\ATTY\JW\240204US\240204US_AM DUE 4-8-09.DOC